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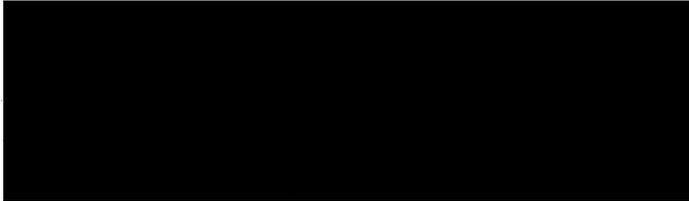
DH

U.S. Department of Homeland Security
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Washington, DC 20536

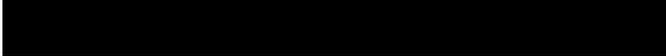
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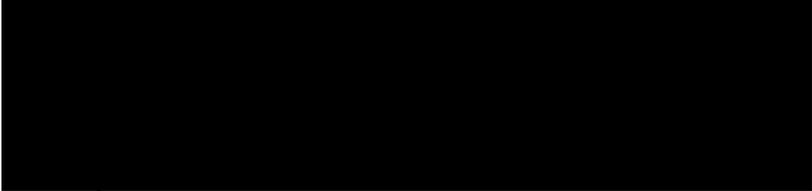


FILE: SRC 03 130 50789 Office: TEXAS SERVICE CENTER Date: **FEB 24 2004**

IN RE: Petitioner: 
Beneficiary: 

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(ii)(b) of the
Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(H)(ii)(b)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was approved by the Director, Texas Service Center, and certified to the Administrative Appeals Office (AAO) for review. The director's decision will be affirmed, although the approval is now moot.

The petitioner engages in the business of sewing garments and household articles. It seeks to employ the beneficiary as a supervisor for seven months. The beneficiary will operate and train existing employees on the operation of a specific type of high-speed production equipment manufactured in the Netherlands. The Department of Labor determined that a temporary certification by the Secretary of Labor could not be made.

The director determined that sufficient countervailing evidence had been submitted to show that qualified persons in the United States are not available, that the employment policies of the Department of Labor have been observed, and that the need for the services to be performed is a one-time occurrence and temporary.

After review of the evidence contained in the record, the decision of the director is found to be correct.

The regulation at 8 C.F.R. § 214.2(h)(9)(ii)(B) states that, if a petition is approved after the date the petitioner indicates that the service will begin, the approved petition and approval notice should show a validity period commencing with the date of approval and ending with the date requested by the petitioner.

In a letter dated March 18, 2003, the petitioner stated that seven months was a sufficient amount of time to allow the beneficiary to train and supervisor existing employees. The director indicated on the petition that the validity dates are from May 28, 2003 until December 28, 2003.

The petition should have been approved for the requested time period. This decision will have no practical effect because the period of requested employment has passed.

ORDER: The director's decision is affirmed; however, the matter is moot due to the passage of time.